

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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SAMUEL CABASSA,

Plaintiff,

vs

9:01-CV-1039

CRAIG GUMMERSON, Corrections Captain,  
Auburn Correctional Facility; DONALD SELSKY,  
Assistant Deputy Commissioner/Director of Special  
Housing/Disciplinary Program; ANTHONY GRACEFFO,  
Chief Medical Doctor, Auburn Correctional Facility;  
GLENN S. GOORD; HANS WALKER; GARY HODGES;  
D.W. SEITZ; TERRY A. HALCOTT; CHRISTINE COYNE;  
NANCY O'CONNOR; ANN DRISCOLL; JOHN McCLELLLEN;  
JOHN ROURKE, Captain Security Services at Auburn  
Correctional Facility; KOORS, Head Pharmacist at  
Auburn Correctional Facility; ROBERT MITCHELL,  
Correctional Counselor at Auburn Correctional Facility;  
and ANDROSKO, Registered Nurse, Auburn Correctional  
Facility,

Defendants.

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APPEARANCES:

OF COUNSEL:

SAMUEL CABASSA  
84-a-0364  
Shawangunk Correctional Facility  
Box 700  
Wallkill, New York 12589

HON. ELIOT SPITZER  
Attorney General of the  
State of New York  
Attorney for Defendant  
Department of Law  
The Capitol  
Albany, NY 12224

DAVID FRUCHTER, ESQ.  
Asst. Attorney General

DAVID N. HURD  
United States District Judge

**ORDER**

Plaintiff, Samuel Cabassa, brought this civil rights action pursuant to 42 U.S.C. § 1983. In a Report Recommendation dated March 30, 2006, the Honorable George H. Lowe, United States Magistrate Judge, recommended that defendants' motion for summary judgment be denied to the extent it seeks dismissal of (1) the claims asserted against defendants Walker and Seitz in the Fourth Cause of Action of plaintiff's Fourth Amended Complaint; and (2) the claims asserted against defendants Walker, Gummerson, and Seitz in the Fifth Cause of Action of Plaintiff's Fourth Amended Complaint, but that defendants' motion be granted in all other respects. Objections to the Report Recommendation have been filed by all parties.

Based upon a de novo review of the portions of the Report-Recommendation to which the parties have objected, the remainder of the Report-Recommendation is accepted and adopted. See 28 U.S.C. 636(b)(1).

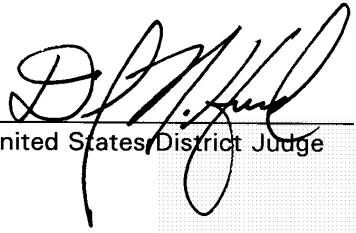
Accordingly, it is

ORDERED that

1. The objections to the Report Recommendation are REJECTED;
2. The defendants' motion for summary judgment is DENIED to the extent it seeks dismissal of:
  - a. The claims asserted against defendants Walker and Seitz in the Fourth Cause of Action of plaintiff's Fourth Amended Complaint; and
  - b. The claims asserted against defendants Walker, Gummerson, and Seitz in the Fifth Cause of Action of Plaintiff's Fourth Amended Complaint;

3. The defendants' motion is GRANTED in all other respects; and
  4. The remaining claims in plaintiff's Fourth Amended Complaint are DISMISSED.
- IT IS SO ORDERED.

Dated: June 1, 2006  
Utica, New York.



United States District Judge